

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

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of the taxable property in each such city shall be liable for the payment of the principal and interest of said bonds when issued. Provided, however, that no bonds shall be issued under this act if such issue shall make the total indebtedness of said city aggregate more than ten per cent of the assessed valuation of such city according to the last preceding assessment. (Act Apr. 1, 1931, c. 112, §3.)

1973-½c. Tax levy to retire.—When any of the bonds herein authorized shall have been issued and sold as above provided, it shall thereafter be the duty of the board of education to provide for and secure the levy of an annual tax of such amount as may be necessary to pay the principal and interest of such bonds as the same become due, and such annual tax shall be certified, levied and collected in the same manner as other school taxes are certified, levied and collected, and when collected shall be paid over to the city treasurer to be applied to the payment of the principal and interest of said bonds and to no other purpose. (Act Apr. 1, 1931, c. 112, §4.)

POWER OF SCHOOL DISTRICTS WITH RESPECT TO BONDS

Act Ex. Ses., Dec. 21, 1933, c. 5, authorizes board of education in any district embracing an entire county in which is located a city of the second class, and which board has power to levy school taxes, to issue bonds or certificates of indebtedness not exceeding \$300,000 for erection of an additional grade school building to replace old buildings. Omitted as local in application.

Act Jan. 9, 1934, Ex. Ses., c. 75, authorizes independent school districts within cities of the first class, the charters of which do not provide for school government, to issue bonds not exceeding \$17,500 in amount to pay cost of improvements on school property. It is omitted as local and temporary.

Where electors of Wells school district voted to issue bonds in the sum of \$120,000, and a request for a special election to vote upon rescinding authorization for issuance of bonds was filed, it would be confusing and possibly invalid to call another election to vote upon proposition of issuing bonds for a lesser amount without having first rescinded the original authorization. Op. Atty. Gen., Mar. 7, 1932.

CHAPTER 10A

Depositories of Public Funds

1973-1. Depository bonds.—Any bank or trust company authorized to do a banking business in this state, designated as a depository of county, city, village, borough, town or school district funds, as provided by law, may, in lieu of the corporate or personal surety bond required to be furnished to secure such funds, deposit with the treasurer of the municipality making such designations, such bonds, certificates of indebtedness or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state of the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation, or notes secured by first mortgages of future maturity, upon which interest is not past due, on improved real estate free from delinquent taxes, within the county wherein said bank or trust company is located, or within counties immediately adjoining such county in the State of Minnesota. The total in amount of such collateral computed at its market value shall be at least ten per cent more than the limit of deposit which would be permitted if a corporate or personal surety bond was furnished. The depository may in its discretion furnish both a bond and collateral aggregating the required amount. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating such depository, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges all moneys deposited therein at any time during the period such collateral shall be so deposited, and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the governing body of the municipality making the designation shall have full power and authority to sell such collateral, or as much thereof as may be necessary to realize the full amount due the municipality and to pay over any surplus to the depository, or its assigns. A depository may in its discretion deposit collateral of a value less than the total designation and may from time to time during the period of its designation deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated and he shall in the case of a reduction of the deposit permit the depository to

withdraw the excess portion thereof. All interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall first be approved by the same authority that designated the depository but no such authority shall be necessary for the withdrawal of collateral. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the municipality, or its treasurer, shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. If both bond and collateral is furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. If a corporate surety bond is furnished by a depository it shall be in a penal sum not to exceed the amount designated as the limit of deposit therein notwithstanding any other provisions of law to the contrary. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of ninety per cent of the market value thereof. Any provision of law authorizing any county, city, village, borough, town or school district to designate banks as depositories shall be construed to include trust companies authorized to do a banking business. All bonds furnished under the provisions of this Act shall be approved by the governing body of the municipality making such designation and shall be filed in the office of the county auditor as provided by Chapter 118, of the Laws of the State of Minnesota for the year 1927, and all collateral deposited under the provisions of this Act shall be approved by the governing body of the municipality making such designation and after such approval be deposited with the treasurer of such municipality, unless the governing body of such municipality shall by resolution fix and determine some other place for the safe keeping of such collateral. Provided such collateral shall not be re-deposited in the bank or trust company furnishing the same. ('25, c. 173, §1; Apr. 25, 1929, c. 370, §1; Mar. 1, 1933, c. 41, §1.)

Sec. 2 provides that the act shall take effect from its passage.

City did not have a preferred claim against an insolvent depository bank in which city treasurer had made deposits in excess of securities deposited by the bank, the overdeposit not constituting an offense under §10303. 172M324, 215NW174.

A bank has no power to pledge any of its assets to secure the repayment of the deposits, except as given by statute. 174M286, 219NW163.

Where an unauthorized pledge of assets is made by bank and it becomes insolvent, receiver may recover assets pledged, or damages, if they have been converted. 174M286, 219NW163.

A commercial bank has no power to pledge bills receivable to secure deposits, even though it be to induce an extension of a past-due deposit. 175M363, 221NW242.

Surety held not liable where bank continued to do business several years after the close of the year covered by the bond. 175M482, 221NW869.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

Bondsmen of depository for school district, designated without any specifications as to time, were liable to school district where bank was taken over for liquidation three years and two days after designation. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701, 2702.

The evidence is not sufficient to sustain a finding that Liberty bonds deposited with the defendant bank, a designated depository of the plaintiff school district, were a substitute or in lieu of a bond executed with individual sureties, or that the taking of Liberty bonds discharged such bond, or that another bank was designated as a depository; and the trial court was right in so directing the jury. School Dist. No. 75 of Kittson County v. F., 182M381, 234NW594. See Dun. Dig. 2701.

Officers and stockholders of a bank may sign a depository bond. Op. Atty. Gen., Mar. 5, 1929.

Banks are without authority to assign collaterals or securities to protect thrift funds collected from school children by school officers or teachers. Op. Atty. Gen., Apr. 8, 1929.

School district may not designate bank located outside state. Op. Atty. Gen., June 8, 1929.

Approval of collateral offered is now to be had by the county board rather than the board of audit. Op. Atty. Gen., Aug. 21, 1929.

Consolidated bank does not succeed to position as county depository. Op. Atty. Gen., Oct. 4, 1929.

Deposits cannot exceed capital and surplus even though secured by both bond and collateral. Op. Atty. Gen., Oct. 31, 1929.

County only has priority up to the amount of the capital and surplus, no matter how much collateral is pledged by the bank. Op. Atty. Gen., Dec. 12, 1929.

The word "municipality" in this section as amended by Laws 1929, c. 370, includes counties, and the collateral must be approved by the county board. Op. Atty. Gen., Feb. 10, 1930.

The City of Cleveland is not an "agency" of the state of Ohio, and bonds of that city are not receivable as collateral under this section as amended by Laws 1929, c. 370, but such bonds might qualify under §7714. Op. Atty. Gen., Feb. 10, 1930.

This section as amended by Laws 1929, c. 370, requires the deposit with the county auditor of all depository bonds taken by counties, towns, school districts and cities. Op. Atty. Gen., May 3, 1930.

A bank designated as a depository of county funds must furnish the bond, or in lieu thereof the collateral security required by statute, and no exceptions are made. Op. Atty. Gen., Mar. 2, 1931.

County attorney is under no obligation to check the facts relative to the issuance of any municipal bonds offered as collateral to see that the bonds were properly issued by the municipality purporting to issue the same. Op. Atty. Gen., Feb. 20, 1931.

While a state bank may give a bond to secure the government for deposit of postal savings, it may not pledge any portion of its assets. Op. Atty. Gen., May 22, 1931.

A bank cannot pledge a customer's notes to secure public deposits. Op. Atty. Gen., June 11, 1931.

There is no statute regarding depositories which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

A bank had no legal authority to pledge certificates of deposit, but in view of Laws 1931, c. 296, school district warrants may be pledged to secure public deposits. Op. Atty. Gen., Aug. 18, 1931.

This act should be construed in connection with §7714 in determining what securities may be lawfully accepted by a village in pledge as collateral security for deposit of village moneys. Op. Atty. Gen., Dec. 2, 1931.

Notes secured by first mortgages on real estate in Minnesota are not authorized securities under this statute. Op. Atty. Gen., Jan. 12, 1932.

Bond for city depository with individual sureties should be twice amount city has on deposit. Op. Atty. Gen., May 3, 1932.

If collateral is furnished by city depository, its market value should be at least ten per cent more than limit of deposit which would be permitted if corporate or personal surety bond was furnished. Op. Atty. Gen., May 3, 1932.

City depository, and not city, should pay premium on bond. Op. Atty. Gen., May 3, 1932.

Payment of interest by city depository is matter of contract between bank and city council. Op. Atty. Gen., May 3, 1932.

City council may designate, as depository, a bank outside city. Op. Atty. Gen., May 3, 1932.

Depository for county funds may deposit and assign county warrants as collateral security. Op. Atty. Gen., May 31, 1932.

Practice of reassigning collateral following redesignation of city depositories is proper. Op. Atty. Gen., Jan. 24, 1933.

Depository of city and school district could deposit bonds of city as collateral for city and district. Op. Atty. Gen., Feb. 2, 1933.

Notes secured by mortgages on village real estate may not be deposited as collateral by village depository. Op. Atty. Gen., Feb. 4, 1933.

A bank, while in process of reorganization, may, with consent of commissioner, complete purchase and sale of bonds under contracts. Op. Atty. Gen., Mar. 17, 1933.

Salaries and wages of bank officers and employees rendered during reorganization may be paid out of funds in hands of bank at time of issuance of lieutenant governor's proclamation. Op. Atty. Gen., Mar. 17, 1933.

Where state moneys in hands of county treasurer are lost through closing of county depository, state is not entitled to preference in moneys collected from collateral or sureties upon depository's bond. Op. Atty. Gen., Mar. 18, 1933.

It is not mandatory upon municipalities to accept collateral referred to as "notes secured by first mortgages," etc. Op. Atty. Gen., Mar. 20, 1933.

County attorney must examine abstract of title to real estate covered by mortgages substituted in lieu of bond as security from depositories, without extra compensation. Op. Atty. Gen., Mar. 22, 1933.

Where county board permits substitution of real estate mortgages in lieu of bond as security from depositories as permitted by this act it is the duty of county attorney to examine abstracts of title without additional compensation. Op. Atty. Gen., Mar. 22, 1933.

Securities which have been assigned to county by depository must be deposited with the county treasurer unless county board provides for their safe-keeping by one other than the treasurer, and board may not select bank or trust company furnishing same as their custodian. Op. Atty. Gen., Mar. 29, 1933.

Under this section as amended by Laws 1933, c. 41, school board may accept, in addition to personal bonds of depositories, real estate mortgages to guarantee the obligation of the depository, but not to guarantee the obligation of the sureties. Op. Atty. Gen., Mar. 30, 1933.

There is no statutory limit as to amount a village may deposit in any one bank other than the requirement that designation of depository should specify amount which may be deposited therein, and the depository must give bond in at least double the amount so specified. Op. Atty. Gen., Apr. 3, 1933.

Where village has deposit in closed bank for which it holds as part security certain of its own refunding bonds, such bonds may be cancelled at their face value and set-off against the right of the village to an equal sum of money due it from the bank as a depositor. Op. Atty. Gen., Apr. 19, 1933.

A village holding its own bonds as security for deposit in bank may cancel bonds and permit face value as equitable offset against deposit claim. Op. Atty. Gen., Apr. 19, 1933.

County board must approve collateral deposited to secure county deposits. Op. Atty. Gen., Apr. 28, 1933.

Money deposited by clerk of court who took certificate of deposit would not be protected by securities deposited with county treasurer by bank, such money being held by clerk for distribution to private persons. Op. Atty. Gen., Apr. 28, 1933.

Under this section, as amended by Laws 1933 c. 41, a school district may invest its funds in liberty loan bonds. Op. Atty. Gen., May 3, 1933.

Bonds as security for township funds classified. Op. Atty. Gen., May 5, 1933.

County is a preferred creditor as to funds remaining in designated depository after expiration of term. Op. Atty. Gen., July 27, 1933.

City treasurer was relieved of liability for loss of funds where he deposits money lawfully in depository designated by city council. Op. Atty. Gen., May 31, 1933.

United States treasury notes are authorized security in lieu of depository bonds, but it is question of fact whether "South Park Commissioners, Improvement, Chicago, Ill." bonds, qualify. Op. Atty. Gen., Aug. 2, 1933.

Under this section as amended by Laws 1933, c. 41, where mortgages are assigned to county to secure deposits, assignments should be recorded, and on return of security, proper assignments should be made under §641. Op. Atty. Gen., Aug. 11, 1933.

Depositing of bonds by bank in lieu of depository bonds does not constitute an unlawful preference in case of insolvency. Op. Atty. Gen., Aug. 28, 1933.

County may accept deposit of real estate mortgages instead of bonds. Op. Atty. Gen., Oct. 6, 1933.

1973-6. Depositories — Bank delinquent in payment of taxes on stock shares.

This statute is still in force. Op. Atty. Gen., May 29, 1930.

1973-8. Certain banks may be depositories.—In every case where a bank which is eligible under the provisions of General Laws 1927, Chapter 381 [Mason's Minn. Stat., 1927, §1973-6], merges or consolidates with another bank under the charter of either, such consolidated bank shall, so long as all taxes levied and assessed against its shares under the laws of this state subsequent to such consolidation are paid as required by law, be eligible to receive deposits of public moneys under said act. (Act Apr. 19, 1929, c. 262.)

1973-9. Treasurer to be reimbursed for losses.—Where the treasurer of any town, village or city of the fourth class has or shall hereafter reimburse such town, village or city for loss of funds of the town, village or city on deposit in any bank which has or may become insolvent, such town, village or city shall reimburse said treasurer for the money so paid when a majority of the electors voting thereon at the annual town meeting or at any regular or special village or city election vote so to do; provided, that the notice of such annual meeting or election shall specify that such matter will be considered thereat. (Laws 1931, c. 35; Apr. 20, 1931, c. 279.)

Supersedes Laws 1929, c. 133, limited to town treasurers.

Laws 1931, cc. 35 and 279 do not repeal Laws 1929, c. 133 so as to prevent vote to reimburse town treasurer at special town meeting. Op. Atty. Gen., July 8, 1932.

1973-10. Depositories insured under federal act excused from giving security to extent of insurance coverage.—No bank or trust company authorized to do a banking business in this state, designated as a depository of state, county, village, borough, town, or school district funds, and Cities howsoever organized, provided by law, the deposits of which bank or trust company are insured in whole or in part, under the provisions of the Act of Congress of the United States of June 16, 1933 (creating the Federal Deposit Insurance Corporation and the Temporary Federal Deposit Insurance Fund) [Mason's U. S. C. A., tit. 12, §264], shall be required to furnish any corporate or personal surety bond, or deposit any collateral in lieu of bond, to secure such funds, in so far as such funds shall constitute "insured Deposit liabilities" of such bank or trust company within the provisions of said Act of Congress. Provided, that nothing in this Act shall be construed to release any bank or trust company from furnishing surety bond or collateral for all deposits in excess of the insurance afforded by the National Banking Act. (Act Jan. 9, 1934, Ex. Ses., c. 62, §1.)

1973-11. Same—repeal.—All Acts or parts of Acts, inconsistent herewith, are hereby repealed. (Act Jan. 9, 1934, Ex. Ses., c. 62, §2.)

CHAPTER 11

Taxes

Laws 1929, c. 38, creates a bank tax commission to study question of national bank taxation and to report at next session of legislature. Laws 1931, c. 275, continues the commission to the end of the 1933 session. Laws 1933, c. 323, continues commission.

Laws 1931, c. 303, authorizes the tax commission to compromise taxes assessed against shareholders of national banks. See, also, Res. No. 8, Laws 1931, p. 627.

GENERAL PROVISIONS

1974. Property subject to taxation.**1. General rules.**

Intangibles, if so used as to become integral part of local business, may acquire situs for taxation other than domicile of their owner. Baker v. S., 186M160, 242NW 697. See Dun. Dig. 9155, 9572b.

City of Mankato could not enact an ordinance requiring one starting a new mercantile business to post a bond conditioned that if the concern does not stay in business for more than one year, the amount thereof should be forfeited to the city in liquidation of personal property taxes, license, etc. Op. Atty. Gen., Mar. 27, 1931.

7. Interstate commerce.

Cattle, temporarily owned by licensed dealers at stockyards as they arrive and are purchased and resold outside state, are not subject to state taxation, such holding constituting interstate commerce. State v. Blasius, 187M420, 245NW612. See Dun. Dig. 4894.

8. Held taxable.

A membership in the South St. Paul Traders' Livestock Exchange is property, and subject to taxation. State v. Blasius, 187M420, 245NW612. See Dun. Dig. 9128.

Franchises are subject to taxation. City of South St. Paul, 248NW288. See Dun. Dig. 9125.

1975. Property exempt.

Farm lands acquired by state through foreclosure of mortgages are not subject to taxation. State, Appeal of, 234M691. See Dun. Dig. 9151a.

The courts cannot acquire jurisdiction in proceedings to enforce taxes over state property. State, Appeal of, 182M437, 234NW691. See Dun. Dig. 9151a.

In the absence of express law so declaring, property of the state is not subject to taxation. State, Appeal of, 182M437, 234NW691. See Dun. Dig. 9151a.

Where city acquired land for airport pursuant to condemnation proceedings on Dec. 26, 1929, it was subject to 1929 levy of taxes which was spread on the books prior to that date. Op. Atty. Gen., Mar. 4, 1931.

A municipal golf course purchased by a city on Jan. 3, 1931, is exempt from taxation for 1931 and subsequent years, assuming that it is without unreasonable delay devoted to the purpose for which purchased. Op. Atty. Gen., Mar. 4, 1931.

Land owned and used by Boy Scouts is not exempt from taxation. Op. Atty. Gen., Aug. 11, 1930.

Property of Young Men's Christian Association used for boys' camp is not exempt from taxation. Op. Atty. Gen., Aug. 11, 1930.

Property purchased by an institution under a contract for a deed is not exempt from taxation. Op. Atty. Gen., July 20, 1931.

3. Special assessments.

Constitutional exemption of church property from taxation has no application to special assessment for local improvements. Op. Atty. Gen., Sept. 21, 1932.

On deed by state of land to private party, city has no authority to levy assessment for local improvements made while state owned premises. Op. Atty. Gen., Feb. 14, 1933.

4. Held exempt.

Property purchased by a church as a site for new church buildings is exempt at least from time architect is employed to prepare plans. State v. Second Church of Christ, Scientist, 185M242, 240NW532. See Dun. Dig. 9152.

Fact that church purchasing site for new buildings receives some small incidental revenue from the property was not sufficient ground for denying tax exemption. State v. Second Church of Christ, Scientist, 185M 242, 240NW532.

Taxes may not be levied against land owned by the state through foreclosure of rural credits bureau loan. Op. Atty. Gen., Sept. 24, 1931.

Property of the Animal Rescue League of Minneapolis is exempt from taxation. Op. Atty. Gen., Jan. 5, 1932.

When property is conveyed to a county, it becomes exempt from taxation, and enforcement of payment of any delinquent taxes is suspended. Op. Atty. Gen., Feb. 11, 1932.

Farms acquired by department of rural credit do not become subject to taxation when sold by state on contract for deed. Op. Atty. Gen., Sept. 2, 1932.

If renting of part of school building to a newspaper is subordinate to its principal use as a school and does not interfere therewith such renting does not destroy or take away the school's tax exemption. Op. Atty. Gen., Apr. 13, 1933.

Building principally used for school purposes is exempt, though part of it is rented to others. Op. Atty. Gen., Apr. 13, 1933.

5. Held not exempt.

Hospital held not exempt from taxation. Op. Atty. Gen., Mar. 11, 1933.

Land acquired by state through foreclosure of mortgage is not taxable to pay bonded indebtedness of school district. Op. Atty. Gen., Aug. 1, 1933.

1975-1. Building and loan associations exempted from income tax.—Building and loan associations as defined by Mason's Minnesota Statutes of 1927, Section 7749-1, are hereby exempted from all income taxes and all franchise or privilege taxes measured by